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PR

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/485,468 02/08/00 BIERWIRTH

F P0720/7000

023413
CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

PM82/1003

EXAMINER

VARNER, S	ART UNIT	PAPER NUMBER
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3635
DATE MAILED:

10/03/01

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/485,468

Applicant(s)

BIERWIRTH, FRIEDHELM

Examiner

Steve M Varner

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is a method claim, but no method step is recited.

Claims 2-29 are structural claims that recite only desired results with no specific structure.

Regarding claim 1, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 1 recites the limitation "stable supporting elements" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "unstable supporting elements" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "base" in line 8; in claim 10, line 3, 7, 8, 9; in claim 11, line 2, 4, 7; in claim 12, line 6, 8, 15, 17; in claim 16, line 2, 6; in claim 17, line 2. There is insufficient antecedent basis for this limitation in these claims.

Claim 1 recites the limitation "base-connected support points" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "inert mass" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "coupling element" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "low gradient of the paths of movement" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "oscillation-discoupled bearing" in line 20. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "load support" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "shaft" in line 6, 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "building structure" in line 21. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "object's walls" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "oscillating base" in line 2. There is insufficient antecedent basis for this limitation in the claim.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and

Art Unit: 3635

Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 1, 2, recite the broad recitation objects or object respectively, and the claim also recites buildings or building respectively which is the narrower statement of the range/limitation.

"Center a, because" is unclear in claim 13.

"That a from" is unclear in claim 19.

Given the 112 problems noted above, the scope and content of the claims are difficult to determine. Therefore, consideration of the claims in view of prior art will not be further made until the claims are presented in clear form with the 112 problems corrected.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Medeot et al. discloses a Load dissipating and limiting device. Mori teaches an earthquake-proof foundation. Toyama teaches a support device. Baratoff et al. discloses shock isolators. Kalpins teaches a support system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-18940839. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.

SV

September 18, 2001



Carl D. Friedman
Supervisory Patent Examiner
Group 3600